

HOUSE BILL 2950
By Stanley

AN ACT to amend Tennessee Code Annotated, Title 29,
Chapter 1, Part 1, relative to exemplary damages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 1, Part 1, is amended by
adding the following as a new section thereto:

29-1-112.

(a) As used in determining whether and in what amount exemplary damages should be assessed against a defendant in a civil action, the word "intentional" and the word "willful" shall be synonyms and shall have no meaning other than a volitional act or omission of compos mentis human persons acting or omitting to act, either for themselves individually or as an agent of another human person or entity; provided, the motivation for the act or omission and what the person intended the consequence of the act or omission to be shall be immaterial and irrelevant to whether an act or omission is "willful" or "intentional".

(b) No judge or chancellor shall refuse to submit, at the request of a party to a civil action, to a jury or, in a non-jury case, to adjudge whether and, if so, what amount should be awarded against a defendant as exemplary damages.

(c) Judgments requiring a defendant to pay exemplary damages shall mandate that one half (1/2) of the amount awarded shall be paid to the state of Tennessee for no use other than, as allocated by the general assembly, the enhancement of the administration of justice by improvements to make the operation of the judiciary more effective and efficient.

(d) To the extent that a defendant against whom or which a judgment awarding exemplary damages has been entered, in a separate civil action exclusively for the purpose, proves to the satisfaction of a jury or, in a non-jury case, a judge or chancellor, other than the jury and judge or chancellor who returned the verdict and entered the judgment, that, because of circumstances beyond the control of the judgment debtor, terms for payment of the exemplary damages judgment, other than a lump sum payment, is in the public's interest, payment of the exemplary damages shall be as the jury or, in a non-jury case, the judge or chancellor adjudge shall be the terms; provided, neither the oughtness nor the propriety of either the award or the amount of the award of exemplary damages shall be subject to change or modification in such a civil action, and no party nor the judge directly or by innuendo shall make any comment in the presence of the jury directed to or about such oughtness or propriety, and the court shall instruct the jury in unmistakable terms that the jury is to make its decision without regard for such factors and exclusively based on the public's best interest as it relates exclusively to the exemplary damages in the case before them for judgment; provided further, such a judgment debtor must file such a civil action no later than ten (10) days after the judgment becomes final, for the purposes of appeal, in the trial court; provided further, such a civil action shall be completed in the trial court sooner than sixty-five (65) days from the date the civil action is filed; provided further, the rules pertaining to the presentation of evidence and other information for consideration by the jury or, in a non-jury case, the judge or chancellor shall be that outlined in *Rules of the Supreme Court of the State of Tennessee*, Rule 31 Appendix E; provided further, there shall be no appeal from the judgment of the trial court in such a civil action.

(e) No trial court and no appellate court or any judge, chancellor or justice thereon shall ever have any subject matter jurisdiction to reverse, overturn, set aside, amend or modify in any way a verdict of a jury awarding exemplary damages on the ground that the court,

judge, chancellor or justice is dissatisfied either with the award or absence of an award of exemplary damages or on the ground that the amount of the award is greater or lesser than the court, judge, chancellor or justice considers that it ought to have been, irrespective of whether the reason for the reversal, overturning, setting aside, amendment or modification is stated to be the award or the amount of the award or is stated to be for some other reason when, in reality, the other reasons are motivated or influenced to any degree by a dissatisfaction with the award or amount of the award.

SECTION 2. This act shall take effect July 1, 2006, the public welfare requiring it.